

**SUSMAN GODFREY L.L.P.**

A REGISTERED LIMITED LIABILITY PARTNERSHIP

1000 LOUISIANA

SUITE 5100

HOUSTON, TX 77002-5096

(713) 651-9366

FAX (713) 654-6666

WWW.SUSMANGODFREY.COM

401 UNION STREET  
SUITE 3000  
SEATTLE, WA 98101-2668  
(206) 516-3880

ONE MANHATTAN WEST  
NEW YORK, NY 10001-8602  
(212) 336-8330

1900 AVENUE OF THE STARS  
SUITE 1400  
LOS ANGELES, CA 90067  
(310) 789-3100

JUSTIN A. NELSON  
DIRECT DIAL 713-653-7895

E-MAIL JNELSON@SUSMANGODFREY.COM

August 4, 2025

**VIA ECF**

Hon. Ona T. Wang  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007

RE: *In re OpenAI, Inc. Copyright Infringement Litigation* (No. 1:25-md-03143) This document relates to all actions.

Dear Judge Wang:

We write on behalf of Class Plaintiffs, Ziff Davis, and The Intercept to note those Plaintiffs' interest in the issues addressed by News Plaintiffs' motion to compel OpenAI to sample and search API data. *See* Dkt. 398. Among other things, Class Plaintiffs have interests in the API output data and the classifiers which OpenAI has used to record the types of content generated by API users. These materials are relevant to Class Plaintiffs' output claims<sup>1</sup> and to fair use (particularly factor four, the effect of the use on the market for the copyrighted works.) They are also relevant to *scienter* for purposes of The Intercept's and Ziff Davis's DMCA claims.

At this time, those Plaintiffs have not moved to compel OpenAI on this issue. However, those Plaintiffs respectfully request to be included in any settlement conferences regarding these issues and will be available to answer any of the Court's questions regarding this interest in OpenAI's classifier usage, particularly as it pertains to API data, at the August 12<sup>th</sup> hearing.

By: /s/Justin Nelson

Justin Nelson  
**SUSMAN GODFREY LLP**

<sup>1</sup> OpenAI has filed a motion to dismiss Class Plaintiffs' output claims (which remains pending). However, and as explained above, the material would be relevant in any event due to fair use factor four.

1000 Louisiana, Street, Suite 5100  
Houston, TX 77002  
(713) 651-9366  
[jnelson@susmangodfrey.com](mailto:jnelson@susmangodfrey.com)

Lacy H. (“Lance”) Koonce, III  
**KLARIS LAW PLLC**  
161 Water Street  
New York, NY 10038  
Telephone: (646) 779-4882  
[lance.koonce@klaris.com](mailto:lance.koonce@klaris.com)  
*Attorneys for Ziff Davis*

Matt Topic  
**LOEVY & LOEVY**  
311 N Aberdeen St Ste 3  
Chicago, IL 60607  
Telephone: (312) 243-5900  
[matt@loevy.com](mailto:matt@loevy.com)  
*Attorneys for The Intercept*